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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|------------------------|---------------------|------------------|
| 10/643,217 | 08/14/2003 | Charles P. Simpson JR. | G0003/7284 | 3459 |
| 21127 | 7590 | 10/24/2005 | EXAMINER | |
| KUDIRKA & JOBSE, LLP ONE STATE STREET SUITE 800 BOSTON, MA 02109 | | | WEAVER, SUE A | |
| | | ART UNIT | | PAPER NUMBER |
| | | | | 3727 |

DATE MAILED: 10/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|---------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/643,217 | SIMPSON ET AL. | |
| | Examiner Sue A. Weaver | Art Unit 3727 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 27 July 2005.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-14 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) 1 and 6-14 is/are allowed.
 6) Claim(s) 2,4 and 15 is/are rejected.
 7) Claim(s) 3 and 5 is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

| | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>7/27/05</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

1. The indicated allowability of claim 2 is withdrawn in view of the newly discovered reference(s) to Miyazaki '794. Rejections based on the newly cited reference(s) follow.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim 15 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Applicants are advised that the tabs and handle set forth in claim 15 appear to be double inclusions of those set forth in claim 4 as applicants have not clearly related the structures.

3. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Miyazaki '794.

Miyazaki teaches a blow molded container with the threaded neck shown at 5. The bead is considered to be disposed below the thread at 2 with a large upper flange at 6 and a smaller lower flange at 8 as shown in Figure 1 and 4.

4. Claims 4 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Krishnakumar et al '167 in view of Borg '517, both of record.

In the prior art Figures 1 and 2, Krishnakumar et al teach a bottle neck structure with upper and lower beads below a thread and a bale handle secured with a ring. To have merely provided the ring with tabs for ease of securing the bale handle in the manner taught by Borg would have been most obvious to one having ordinary skill in the art.

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5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 4 and 15 are further rejected under 35 U.S.C. 102(b) as being anticipated by Yu-Hsien '240.

Please note Figures 11A and B showing the handle with ring and flaps 62 mounted on the neck with threads and upper and lower flanges.

6. Claims 1 and 6-14 are allowed.

7. Claim 3 is objected to under 37 CFR 1.75 as being a substantial duplicate of claim 14. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

8. Claim 5 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. Applicant's arguments, see [ages 7, 8 and 10-12, filed 7/27/05, with respect to the objection to the title and rejection of claims 1 and 6-10 have been fully considered and are persuasive. The objection of the title and rejection to the claims has been withdrawn.

10. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with

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all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

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Certificate of Transmission

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(Date)

Typed or printed name of person signing this certificate:

Signature: _____

Registration Number: _____

Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sue A. Weaver whose telephone number is (571) 272-4548. The examiner can normally be reached on Tuesday-Friday (6-4:30).

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SW
FAX: 571 273-4548

Sue A. Weaver
Sue A. Weaver
Examiner
Patent Examiner